

DECLARATION AND POWER OF ATTORNEY
FOR A CONTINUING PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled THREADED DEVICE FOR IMPLANTATION BETWEEN VERTEBRAE, the specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, Sec. 1.56. (Under Sec. 1.56 information is material to patentability when it is not cumulative to information already of record before the Patent and Trademark Office with respect to the present application and it establishes either by itself or in combination with other information a *prima facie* case of unpatentability of a claim or it refutes or is inconsistent with a position taken in opposing an argument of unpatentability relied upon by the Patent and Trademark Office or in asserting an argument of patentability.

Under this section a prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.)

I hereby claim the benefit under Title 35, United States Code, Sec. 120, of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of Title 35, United States Code, Sec. 112, if any, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Sec. 1.56, which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
09/644,722	August 23, 2000	pending

I hereby state that, as to subject matter of this application which is common to said earlier applications, I do

not know and do not believe that the invention was ever known or used in the United States of America before my invention thereof; and that to the best of my knowledge and belief the invention had not been in public use or on sale in the United States of America more than one year prior to the first of said prior applications in which said common subject matter was disclosed, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the first of said prior applications in which said common subject matter was disclosed or patented or made the subject of an inventor's certificate issued before the date of the first of said prior applications in which said common subject matter was disclosed in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to the first of said applications in which said common subject matter was disclosed; and that no application for patent or inventor's certificate on said invention had been filed before the first of said prior applications in which said common subject matter was disclosed in any country foreign to the United States of America by me or my legal representatives or assigns, except as listed above.

I hereby state that, as to the subject matter of this

application which is not common to said earlier applications, if any, I do not know and do not believe that the invention was ever known or used in the United States of America before my invention thereof; that to the best of my knowledge and belief the invention has not been in public use or sale in the United States of America more than one year prior to this application, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, or patented, or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application; and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns.

I hereby appoint John C. McMahon, Reg. No. 29,415, member of the bar of the State of Missouri, whose postal address is PO Box 30069, Kansas City, Missouri 64112, telephone (816) 531-3470, as my attorney, with full power of substitution, to prosecute this application, to make alterations and amendments therein, to

receive the patent, and to transact all business in the Patent Office connected therewith in my behalf.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 8-26-03



Roger P. Jackson

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